

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

MARTY RICHARD FERGUSON,

Plaintiff,

v.

Case No. 3:18-cv-1051-J-39JRK

UNITED STATES OF AMERICA and
STEVEN MNUCHIN, Secretary of
Treasury,

Defendants.

ORDER

This cause is before the Court on Plaintiff's Motion for Default Judgment Against the United States Department of Treasury and the United States (Doc. No. 48; "Motion"), filed March 5, 2020. In the Motion, Plaintiff seeks the entry of default judgment against the United States Department of the Treasury and apparently against the United States of America. See Motion at 1-3.

A default judgment under Rule 55(b), Federal Rules of Civil Procedure ("Rule(s)"), may be entered "against a defendant who never appears or answers a complaint, for in such circumstances the case never has been placed at issue." Solaroll Shade & Shutter Corp. v. Bio-Energy Sys., 803 F.2d 1130, 1134 (11th Cir. 1986). Here, entry of default judgment (or of a clerk's default under Rule 55(a)) against the U.S. Department of the Treasury and the United States of America is inappropriate because the Amended Complaint does not name the U.S. Department of the Treasury as a defendant, see Amended Complaint (Doc. No. 12) at 1, and the United States of America timely appeared

in this action on November 15, 2019, see Motion by United States of America to Dismiss Action and Supporting Memorandum (Doc. No. 39).¹

Accordingly, it is

ORDERED:

Plaintiff's Motion for Default Judgment Against the United States Department of Treasury and the United States (Doc. No. 48) is **DENIED**.

DONE AND ORDERED in Jacksonville, Florida on March 6, 2020.


JAMES R. KLINDT
United States Magistrate Judge

bhc
Copies to:
Counsel of Record
Pro Se Party

¹ Plaintiff's representation that he served the U.S. Department of the Treasury "no less than four times" is inaccurate. Motion at 2 (capitalization omitted). Plaintiff attempted to serve the named Defendants (the United States of America and Steve Mnuchin) with process a number of times, but as the Court noted in its orders, Plaintiff's service was incomplete or otherwise improper. See Plaintiff's Response to Order to Show Cause (Doc. No. 22), filed May 17, 2019; Order (Doc. No. 23), entered May 21, 2019; Proof of Service (Doc. No. 28), filed June 20, 2019; Order (Doc. No. 29), entered June 24, 2019; Notice of Second Service of Process (Doc. No. 32), filed July 12, 2019; Order (Doc. No. 33), entered July 29, 2019; Update to the Court on Service of Process (Doc. No. 34), filed August 27, 2019; Order (Doc. No. 35), entered August 29, 2019. Defendants were not properly served until September 17, 2019. See Plaintiff's Third Service of Process (Doc. No. 36), filed September 20, 2019.